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COMMITTEE ON THE RIGHTS OF THE CHILD

Fourteenth session

SUMMARY RECORD OF THE 353rd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 13 January 1997, at 10 a.m.

Chairperson: Mrs. BELEMBAOGO

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Panama (CRC/C/8/Add.28 (English and Spanish only); HRI/CORE/1/Add.14/Rev.1; CRC/C/Q/PAN.1 (list of issues); written replies by the Government of Panama with no document symbol, in Spanish)

1. At the invitation of the Chairperson, Mrs. Graham de Sampson and Mrs. Arosemena de Troitiño (Panama) took places at the Committee table.

2. The CHAIRPERSON welcomed the Panamanian delegation on behalf of the Committee and invited it to reply to the questions in the list of issues (CRC/C/Q/PAN.1) concerning general measures of implementation of the Convention.

3. Mrs. GRAHAM DE SAMPSON (Panama) said that in November 1990 Panama had ratified the Convention, which had since been an integral part of its internal law. Subsequently, in order to bring the national legislation into conformity with the Convention, the Parliament had adopted the Family Code, which had entered into force in January 1995 and contained a book II devoted to minors, and it was currently considering a draft code on childhood and adolescence.

4. The Panamanian Constitution guaranteed the right of children to adequate food, health, education, personal safety and social security and stipulated that their parents should exercise parental authority jointly. It also stated the principle of the equality of all children before the law, regardless of the circumstances of their birth. It provided for the establishment of a body specifically responsible for the family and children, and the Parliament was accordingly now considering a bill on the creation of such a body, which was to be the national institute for the promotion of social development. In addition, the Constitution stated the principle of compulsory free primary education and the right of all citizens to participate in the country's cultural life. Furthermore, Act No. 100 of 30 December 1974, on the reorganization of the civil status regulations, recognized the right of children to have a name and acquire a nationality and, where work was concerned, the Labour Code protected minors against exploitation and unhealthy or dangerous work.

5. A special rehabilitation institute had been established for disabled children pursuant to Act No. 53 of 30 November 1951, and Act No. 34 of 6 July 1995, amending the Education Organization Act (No. 47), provided for the implementation of measures to facilitate access by the disabled to education institutions. The latter Act also provided for modernization of education, established compulsory pre-school education, and recognized the need to give priority to the rural regions and the regions where indigenous people lived. Still in the sphere of legislation, Act No. 50 of 25 November 1995 sought to protect and encourage breastfeeding. Lastly, Act No. 27 of 16 June 1995, amending the Penal Code, characterized violence in the family and the ill-treatment of minors as crimes. It also provided for the establishment of specific institutions to care for victims of violence and ill-treatment.

6. With regard to the measures taken to develop mechanisms for the determination of appropriate indicators as well as the collection of statistical data on the status of children, the Ministry of Planning and Economic Policy, with the support of an interministerial body (the Social Cabinet), had carried out research to identify the most vulnerable regions and population groups and the research had led to the preparation of a plan of action for human development, children and young people (1992-2006) and of a draft national strategy to combat poverty. Various indicators had been calculated in the areas of health (child mortality, maternal mortality, malnutrition, vaccination, drinking-water supply, and waste disposal), education (school attendance, repeated years, drop-outs and illiteracy), and employment (work by children in particular).

7. With regard to the steps taken to coordinate the activities of the State and initiatives on the part of civil society to ensure the implementation of the Convention, she said that there was no public body responsible for such coordination. However, once it had been established, the national institute for the promotion of social development would play a lead role in the protection of children and the family. The inter-ministerial body referred to earlier (the Social Cabinet) provided a link between activities in the social sector and in the areas of health, public works, education, employment, social protection, development of fisheries and agriculture, housing, and planning. In addition, the National Council on Children and the Family, which was composed of four members of the Government and seven NGO representatives, also played a coordination role. Children's NGOs were grouped together in the Federation for the Defence of the Rights of the Child (FEDDENPA), which ran a number of reception centres and child rehabilitation centres open to minors in need. The Covenant for Children was a programme designed to coordinate the activities of governmental and non-governmental organizations concerned with children and adolescents. Lastly, the Coalition for a Drug-Free Panama coordinated all the public bodies and non-governmental associations which were trying to prevent drug addiction and help drug addicts.

8. With regard to the possible establishment of an ombudsman for children, the post of ombudsman for minors had been created pursuant to article 834 of the Family Code, but that official was mainly responsible for ensuring the legal protection of children. The Parliament had also adopted recently an act creating the office of national ombudsman, and the plan was for the office to have a unit specifically responsible for children and young people.

9. The proportion of the national budget attributed to social needs (education, health, employment, social security and housing) had risen from 31 per cent of public expenditure in 1990 (about 17 per cent of gross domestic product) to 38 per cent in 1995.

10. With respect to the measures taken to reduce the impact of economic difficulties on the most vulnerable population groups, in collaboration with UNICEF the Government had prepared support programmes for its national policies, which covered the most important social fields, and had formulated proposals on the following topics: project on national development with a human face, integrated strategy for national development, system for monitoring social goals, and methodology for calculating social expenditures.

11. Through the National Council on Children and the Family the Panamanian authorities had carried out in 1995-1996 a programme of seminars and workshops for the benefit not only of personnel working in sectors connected with children but also of the whole national community. Personnel responsible for the administration of juvenile justice had also been given special training.

12. Lastly, international collaboration was being continued, through the Ministry of Planning and Economic Policy, with UNICEF, UNDP and the European Union.

13. The CHAIRPERSON invited the members of the Committee to ask questions about the first part of the presentation.

14. Mrs. BADRAN asked how the changes made in the legislative system had been put into practice and how effective the new mechanisms were proving. She also asked how the dissemination of the principles stated in the Convention was organized and whether a simplified presentation of those principles was envisaged, in order to make them more comprehensible to children.

15. The Panamanian delegation had stated that the proportion of the national budget attributed to social needs had increased to 38 per cent of public expenditure: was that an increase in real terms, taking into account inflation and the population increase, and had the budgetary expenditure in the sectors specifically connected with children also increased by the same amount?

16. She would also like to know whether action had been taken to prevent the structural adjustment policies from further aggravating the economic disparities between, in particular, the urban and rural populations and between the various ethnic groups. She also wondered whether the authorities had already been able to make a first evaluation of the collaboration programme with UNICEF (the first phase of which had covered 1992-1996) and whether any obstacles to the implementation of that programme had been identified. Were any measures envisaged to improve housing?

17. Mr. MOMBESHORA said that despite the improvement in the socio-economic situation in Panama the gap between rich and poor seemed to be widening. Should it be concluded that the provision of social services was not effected by the State in an egalitarian manner? And had the Government taken all the necessary steps to improve the situation of the poorest people?

18. Mrs. SARDENBERG said she was sorry that the initial report of Panama, dated September 1995, did not reflect the true current situation. The core document (HRI/CORE/1/Add.14/Rev.1) contained more recent information, but she would like to be told the source of that document and its status in relation to the initial report. She would also like to know how the Convention was disseminated among all the population groups and how it was perceived by public opinion. Lastly, how were the new legal instruments such as the Family Code implemented and was there any coordination of the various governmental programmes which had been described?

19. Mrs. SANTOS PAIS welcomed the progress made with respect to Panama's legislation. She nevertheless pointed out that the initial reports of countries must deal with the two-year period following the ratification of the Convention. In the case of Panama the Committee had received very inadequate

information. Furthermore, while it was important to describe the new legislative framework and the general attitude of the authorities, in particular with regard to combating poverty and promoting the rights of the individual, it was essential to provide the Committee with the means of forming an accurate opinion on the specific situation of children in the country and, for example, to tell it about the concrete action taken to reduce the unfavourable impact of economic and social difficulties on children. In that regard, some of the information provided was inadequate, in particular concerning justice for minors or, to take a specific example, the consistency of the various pieces of legislation dealing with the age of employment.

20. She also wondered whether the provisions of the Convention took precedence over national legislation and whether a court could cite such provisions directly. Was there any horizontal coordination between all the bodies and services having responsibility for the rights of the child and any vertical coordination between the central and local authorities?

21. She would also like to know whether measures had been taken to reduce disparities, especially those between boys and girls and children belonging to different ethnic groups, and whether arrangements were envisaged for giving priority to the most disadvantaged children.

22. Miss MASON said that the spirit of the Convention was truly innovative since it sought to redefine the place of the child in the family and society. She asked whether there existed in Panama a system of mutual teaching among children, whether children were able to participate in public life, and whether they were represented in the various committees specifically responsible for ensuring respect for children's rights. She would also like to know what were the exact functions of the children's ombudsman established under the Family Code and his degree of independence from the Government. How many requests and complaints did he consider each year? Lastly, she would like to know how the Panamanian authorities fulfilled their obligation to give extensive publicity to the principles of the Convention, whether public meetings were held to enable citizens to exchange views on the question and, if so, which topics seemed to arouse the greatest interest.

23. Mr. HAMMARBERG said that it was a pity that the information contained in the initial report of Panama was out of date, incomplete and too factual. He would like to have some information about the effectiveness of the measures and strategies which had been carried out, in particular about the implementation of the Covenant for Children and the role of NGOs in that regard.

24. The Panamanian authorities had devised a strategy to reduce poverty and the possible negative effects of the structural adjustment policies on the poorest population groups. Was that strategy effective and what action still had to be taken to protect such groups against the impact of deregulation of the economy? Lastly, he would like to know how the "rights of the child" component had been incorporated in the training programmes for police officers, and for health and judiciary personnel.

25. Mr. KOLOSOV said he understood that the Convention on the Rights of the Child could not be invoked directly in the courts. He would therefore like to know whether the provisions of the national laws in force were fully in conformity with the Convention and whether they were applied in the spirit of the Convention.

26. Mrs. KARP said that she regretted the lack of information illustrating the exact nature of the legislative changes since the submission of the initial report. In that connection, she would like to know whether the new legislation embodied the principle of the participation of children in decisions which concerned them and above all the rights of the child in the family context. She noted, for example, that the 1994 Act did spell out the rights of the child but mentioned only legitimate children. She would also like to know the extent to which the new Family Code gave effect to the new vision of the child and whether efforts were being made to enhance parents' awareness of their role as educators in that new vision. She also inquired what proportion of the national budget was allocated to the protection of the family unit. She noted with dismay that the family courts instituted by the Panamanian Government were not functioning for lack of resources and that children could not therefore be protected against ill-treatment. Lastly, she would welcome clarification of the role of the ombudsman in the protection of children and figures on the budgetary allocations for specific activities for children as a proportion of allocations for human rights in general.

27. Mrs. EUFEMIO said that she wished to know the extent to which the various local authorities participated in the conduct of factual analyses of the situation of children and in the evaluation of children's services. She would also like to know what proportion of the national budget was allocated to programmes for children.

The meeting was suspended at 11.45 a.m. and resumed at noon.

28. The CHAIRPERSON invited the members of the Panamanian delegation to reply to the additional questions asked by the members of the Committee about the section of the list of issues entitled "General measures of implementation".

29. Mrs. GRAHAM DE SAMPSON (Panama) said it was regrettable that Panama had had to prepare its initial report in a period of great economic and social instability, for that was why it did not contain all the information necessary for an understanding of the country's situation. Nevertheless, during the period following the submission of the initial report the new Family Code had been adopted, in 1995, and its provisions, even if they were still not yet in force, were indeed based on the principles of the Convention. Moreover, several bodies had been established in Panama as part of the national plan of action. For example, one of the aims of the "Social Cabinet" comprising the Ministers of State responsible for social questions was to improve the situation of the most vulnerable children and to ensure the follow-up of the plan for children. In addition, the new Family Code established the National Council on the Family and Children, which was a consultative body of the national Government responsible for all matters connected with children and the family. Through the Council Panama could undertake specialized studies, and that illustrated the importance attached to respect for all the principles set out in the Convention on the Rights of the Child.

30. With regard to the dissemination of the Convention, the Government had made the teaching of the rights and principles stated therein obligatory in the Ministry of Education's programmes. The mini-summits held in various parts of the country to encourage implementation of the Convention had been attended by various groupings of children and had produced good results, and the Council on the Family and Children, in cooperation with the Ministry of Social Security and several NGOs, had carried out a public awareness programme concerning the problems of street children in particular.

31. A comprehensive programme of health care and education for children had been established, and the relevant systems were in place in all the country's provinces and communes, particularly in rural areas, since special importance was attached to indigenous peoples, which were the poorest population groups.

32. Turning to the housing problem, she said that a housing assistance programme had been devised by the Ministry of Education to meet the needs of the poorest families and that building materials, for example, had been supplied to families under the programme. All such measures went hand in hand with the improvement of the employment situation. Moreover, the communities used their own resources in order to avoid any paternalism on the part of the Government.

33. Mrs. AROSEMENA DE TROITIÑO (Panama) said that the office of children's ombudsman responsible for considering complaints from children was not yet actually in existence. The Legislative Assembly had just approved the establishment of an independent national ombudsman, who would be responsible for the human rights of all the country's inhabitants, including children. The protection of children would thus be guaranteed in principle in that global context. However, the text of the Act had not yet been published in the Official Gazette. In any event, the ombudsman would be required to report to the Government authorities about the future development of his work. In addition, a study group had been working for eight months on the drafting of new laws concerning children and adolescents which would bring Panama's legislation into closer conformity with the provisions of the Convention.

34. On the question of the measures taken in connection with possible areas of discrimination, she said that the Panamanian Constitution contained provisions prohibiting discrimination in general. In addition, the Labour Code and the Family Code prohibited work by children under 14. The employment of children aged under 12 (a common practice in some regions) had been declared illegal by the Supreme Court. Several other provisions were envisaged in the Family Code to prevent all kinds of discrimination, and the State was required to give priority attention to the needs of the most disadvantaged children.

35. With regard to the general administration of justice, Panama traditionally respected the rules of international law even if they were not formally incorporated in domestic legislation. With regard more specifically to the rights of the child, the necessary information was given to the organs and personnel concerned in order to prevent any overlapping or confusion between the provisions of the Family Code and those of the Convention and to ensure that the latter prevailed. The civil law on adoption had been radically amended since the preparation of the report: the former system, which provided for partial adoption with the possibility of revocation, had been replaced by regulations limiting adoption to children aged under 18,

making the adoption decision irrevocable, and providing for monitoring and follow-up in the case of international adoption, as well as requiring the consent of the Ministry of Foreign Affairs. The Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption had been signed and it could be ratified once all the contradictions with internal legislation had been eliminated; the same applied to the Inter-American Convention on adoption.

36. Since the preparation of the report Panama had established new bodies and procedures which made the administration of justice a responsibility of the judiciary and no longer of the Ministry of Justice, as had been the case since 1951. Accordingly, the practice in Panama in that respect was in conformity with the principles stated in article 40 of the Convention.

37. With regard to training and information about the Convention, the education legislation had been amended in order to include the study of questions of the rights of the child and the Convention in education programmes at all levels. However, as in other countries, in Panama the Convention was sometimes perceived as limiting to some extent the authority of parents and teachers - hence the problems and resistance. In 1996 a working group had tried to identify those problems with a view to including all the necessary information in the training of teachers, in particular. A training programme was also planned for the juvenile police: it had been prepared in cooperation with UNICEF and gave priority to prevention and protection in preference to suppression. At the university level the recently created Institute for Women had made a survey of the situation of girls and the problem of early pregnancy. It was estimated that about 20 per cent of babies were born to unmarried adolescent mothers.

38. Mrs. GRAHAM DE SAMPSON (Panama), replying to the question as to whether the provisions of the Convention were actually reproduced in the national legislation, said that generally speaking the Family Code reflected a large part of the content of the Convention. Turning to another point, she said that the proportion of female heads of family had been about 20 per cent in 1990. The distribution of Panama's population was fairly even, with 50.5 per cent men and 49.5 per cent women. With regard to the problem of minors, there was a national commission on women which was responsible for formulating the necessary policies to give effect to the Beijing Platform for Action. The obstacles to the application of the legislation on the family had also been mentioned. Since the former Civil Code dated back to 1917, there was no doubt that the population stood in need of a vast information programme. Despite the limited budgetary resources, efforts had been made in 1996 to ensure the implementation of the Family Code and the relevant provisions of the Convention and to establish a lead body responsible for children and the family.

39. A social development project had also been submitted to the National Assembly. Although the national budget contained no allocations earmarked for children, the social sector budget in general had increased to 38 per cent of the total budget between 1995 and 1996 and was expected to increase to 44 per cent in 1997. In the framework of Panama's strategies to combat poverty, its authorities were trying to facilitate the access of disadvantaged groups to essential services. The measures taken in that connection included nutrition programmes (distribution of milk in schools, etc.), development of community participation, increased budget allocations

for the most needy groups, improved job opportunities, stronger social structures, and development of cooperation with international organizations and NGOs.

40. Various measures had been taken to ensure that all possible grounds for discrimination, especially with respect to civil rights, were brought within the purview of the national legislation. Since 1946 the qualification "legitimate" or "illegitimate" had not appeared on birth certificates, and all discrimination in the payment of maintenance benefits had been abolished. The procedures for registration of acts of civil status had been regulated and standardized by Act No. 100 of 30 December 1974. The rights embodied in the Convention were moreover duly reflected in the Family Code, which took cognizance of the notion of the best interests of the child and children's equality of rights.

41. The CHAIRPERSON said that the information provided orally by the delegation was all the more valuable since the State party had not initiated the process required by the Convention until long after the preparation of the report under consideration. Since the reforms had not yet been completed in Panama, especially with respect to institutions, the Committee must do its utmost to contribute to that process.

42. Mrs. SANTOS PAIS said that, where legislation was concerned, it must be possible for the Convention to be invoked and applied directly in Panama. Since, according to the delegation, the question of the compatibility of the provisions of the Convention with those of the national legislation had not yet been comprehensively studied and since the population at large and judiciary personnel in particular remained reluctant to implement the Convention, the Panamanian authorities must issue a clear message on that point by adopting a children's and minors' code and improving the training of members of the police and the judiciary. Furthermore, the policy of the State party concerning the rights of the child really must reflect all the principles set out in the Convention, in particular in article 4 concerning economic, social and cultural rights. It was indeed important to combat poverty in general, but it was essential to give specific attention to the needs of children. The new "Social Cabinet" should therefore evaluate the impact on children of every general measure taken or planned. She wondered whether there might be some conflicts of jurisdiction between the national ombudsman and the children's ombudsman and, in that event, which of the two would prevail. It did in fact seem that, in order to provide the best protection of the rights of the child, a totally independent arbitrator would be required.

43. Mr. KOLOSOV noted that, according to the Panamanian delegation, the provisions of the Convention were duly reflected in the national legislation, but the interpretation of those provisions was a sensitive matter. He wished to point out that the interpretation of the Convention could not be left to the discretion of each State party. Even taking into account the new developments since the preparation of the report, it could hardly be asserted that the Convention had been duly incorporated in Panamanian law.

The meeting rose at 1 p.m.